

1  
2  
3  
4  
5  
6  
7  
8 **United States District Court**  
9 **Central District of California**  
10 **Western Division**  
11

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MORGAN CODY, *et al.*,

16 Defendants.  
17

CR 91-00216-WJR-TJH-1

**Order**

18 The Court has considered Defendant Morgan Cody's motion for a sentence  
19 reduction based on compassionate release, together with the moving and opposing  
20 papers.

21 On August 2, 1991, after a jury trial, Cody was convicted of: (1) Two counts of  
22 possession with the intent to distribute cocaine, in violation of 21 U.S.C. § 841; (2)  
23 Two counts of being a felon in possession of a firearm, in violation of 18 U.S.C. §  
24 922; and (3) Two counts of using or possessing a firearm in furtherance of a drug  
25 trafficking crime, in violation of 18 U.S.C. § 924(c). On September 18, 1999, District  
26 Judge Robert Timlin sentenced Cody to: (1) A mandatory life term for the two counts  
27 of possession with intent to distribute cocaine; (2) 15 years for the two felon in  
28 possession counts, to run concurrently; (3) 5 years on the first § 924(c) count, to run

1 consecutively; and (4) 20 years on the second § 924(c) count, to run consecutively.  
2 Cody is, currently, serving his sentence at United States Penitentiary, Atwater  
3 ["Atwater"], in Atwater, California.

4 On February 7, 2020, the warden of Atwater denied Cody's request for  
5 compassionate release.

6 Cody, now, moves for a sentence reduction based on compassionate release.

7 The First Step Act, Pub. L. 115-391, 132 Stat. 5194 ["First Step Act"], sought,  
8 *inter alia*, to increase the use and transparency of compassionate release by allowing  
9 defendants who have fully exhausted their administrative remedies to seek  
10 compassionate relief from the District Court. Administrative remedies are exhausted  
11 after the defendant requests the Bureau of Prisons ["BOP"] to initiate a motion for  
12 release on the defendant's behalf and the BOP has either denied the request or failed  
13 to respond to the request within 30 days. *See* 18 U.S.C. § 3582(c)(1)(A). Here,  
14 Cody's motion is exhausted and, therefore, ripe for decision.

15 If the Court finds that extraordinary and compelling reasons warrant a sentence  
16 reduction and that the defendant is not a danger to the community, the Court may, after  
17 considering the factors set forth in 18 U.S.C. § 3553, reduce the defendant's sentence.  
18 18 U.S.C. § 3582(c)(1)(A). Extraordinary and compelling reasons include, *inter alia*:  
19 (1) A terminal illness; (2) A serious medical condition, from which the defendant is not  
20 expected to recover, that substantially diminishes the ability of the defendant to provide  
21 self-care within the environment of a correctional facility; or (3) The defendant is at  
22 least 65 years old, is experiencing a serious deterioration in physical or mental health  
23 because of the aging process, and has served at least 10 years or 75% of the imposed  
24 sentence. *See* United States Sentencing Guidelines § 1B1.13.

25 Cody argued that he is entitled to a sentence reduction because: (1) The First  
26 Step Act amended the sentencing scheme under § 924(c) so that the 25 year consecutive  
27 terms for successive § 924(c) convictions no longer apply; and (2) Cody is, now, 72  
28 years old and suffers serious deterioration in his physical health because of his severe

1 osteoarthritis and cataracts.

2 A change in the law is not an extraordinary and compelling reason to justify  
3 relief. *See* United States Sentencing Guidelines § 1B1.13. As to his arguments  
4 regarding his health, Cody failed to set forth an extraordinary and compelling reason  
5 to warrant a sentence reduction. Further, even if, *arguendo*, he had set forth an  
6 extraordinary and compelling reason, after considering, *inter alia*, the § 3553 factors  
7 and the seriousness of Cody's offenses, the Court would decline to exercise its  
8 discretion to reduce his sentence for compassionate release.

9  
10 Accordingly,

11  
12 **It is Ordered** that the motion for a sentence reduction be, and hereby is,  
13 **Denied.**

14  
15 Date: June 16, 2020

16  
17   
18 **Terry J. Hatter, Jr.**  
19 **Senior United States District Judge**  
20  
21  
22  
23  
24  
25  
26  
27  
28